TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

No. 138.

THE OREGON CENTRAL AND EASTERN RAILROAD COMPANY, CLAIMANT OF THE STEAMER "THREE SISTERS," APPELLANT,

vs.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. SUTTON, D. LATEREAUX, A. SENN, W. YOUNG, JACOB MULTHAUF, WALTER KAISER, JAMES CLUNE, OTIS COLE, AND GEORGE RAABE.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF OREGON.

FILED FEBRUARY 21, 1896.

(16,202.)

190

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In the District Court of the United States for the District of Oregon. In Admiralty.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, Libellants and Respondents,

vs.

THE STEAMER THREE SISTERS—THE OREGON CENTRAL AND EASTERN RAILROAD COMPANY, Claimant and Appellant.

UNITED STATES OF AMERICA, *ss:*

To R. J. Young, M. Bell, C. A. Bell, H. Robertson, W. Howell, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, the above-named libellants, and to Messrs. Cox, Cotton, Teal & Minor, and W. W. Cotton, proctors for libellants:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States within sixty days from the date hereof, pursuant to an appeal filed in the office of the clerk of the district court of the United States for the district of Oregon, wherein The Oregon Central & Eastern Railroad Company is appellant and R. J. Young, M. Bell, C. A. Bell, H. Robertson, W. Howell, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, the libellants above named, are respondents, to show cause, if any there be, why the judgment so appealed from should not be
2 corrected and reversed and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Melville W. Fuller, Chief Justice of the United States, this 22nd day of November, A. D. 1895.

CHARLES B. BELLINGER,
District Judge.

3 STATE OF OREGON, } *ss:*
Multnomah County, }

Due service of the within citation is hereby accepted this 21st day of Nov., 1895.

W. W. COTTON,
Of Proctors for Libellants & Resp's.

[Endorsed:] In the district court of the United States for the district of Oregon. In admiralty. R. J. Young *et al.*, libellants & respond'ts, *vs.* The Steamer Three Sisters—The Oregon Central and Eastern Railroad Company, claimant & appellant. Citation. Filed Nov. 25, 1895. E. D. McKee, clerk U. S. district court. Whalley & Muir, proctors for claimant, &c.

4 In the District Court of the United States for the District of Oregon, March Term, 1895.

Be it remembered that on the 12th day of April, 1895, there was duly filed in the district court of the United States for the district of Oregon a libel in words and figures as follows, to wit:

5 In the District Court of the United States for the District of Oregon.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, Libellants,

vs.

THE STEAMER THREE SISTERS, Respondent.

To the Honorable Charles B. Bellinger, judge of the United States district court for the district of Oregon, sitting in admiralty:

R. J. Young, M. Bell, C. A. Bell, H. Robertson, W. Howell, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe exhibit this their libel against the steamer Three Sisters, her engines, boilers, tackle, apparel, and furniture, and against all persons claiming and intervening for their interests therein in a cause for subtraction of wages on a contract, civil and maritime, and showeth:

First. That the steamer Three Sisters during the years 1892 and 1893 was engaged in navigating the waters of the Willamette river in the State of Oregon and is still engaged in navigating the waters of the said river within the said State; that during said time the Oregon Pacific Railroad Company was the owner of the said steamer, but that all the property of the said Oregon Pacific Railroad Company, including the said steamer Three Sisters, was in the possession and under the control of receivers thereof appointed by the circuit court of the State of Oregon for the county of Benton in the suit of The Farmers' Loan & Trust Company, trustee, against The Oregon Pacific Railroad Company and The Willamette Valley & Coast Railroad Company; that the said Oregon Pacific Railroad Company, acting through its said receivers so appointed as aforesaid,

6 hired the said libellants on board of the said steamer Three Sisters in the capacity, for the length of time, and at the agreed wages as follows, to wit:

The said R. J. Young between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment 21½ days as captain of the said steamer at the agreed price of $125.00 per month, and there is due him for said services the sum of $89.58, which is wholly unpaid.

The said M. Bell between the first of November and the 20th of December, 1893, rendered services on the said steamer Three Sisters under the said employment as mate 21½ days at the agreed price of $100.00 per month, and there is due him for such services the sum of $71.66, which is wholly unpaid.

The said C. A. Bell between the first of November and the 20th of December, 1893, rendered services on the said steamer Three Sisters under the said employment as deck hand 21½ days at the agreed price of $40.00 per month, and there is due him for said services the sum of $28.66, which is wholly unpaid.

The said H. Robertson between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment as deck hand 21½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $28.66, which is wholly unpaid.

The said W. Howell between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment as deck hand 21½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $28.66, which is wholly unpaid.

The said D. Latereaux between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment as deck hand 6½ days at the agreed price of $40.00 per month, and there is due
7 him for said service the sum of $8.40, which is wholly unpaid.

The said A. Senn between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under said employment as deck hand 6½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $8.40, which is wholly unpaid.

The said W. Young between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment as watchman 21½ days at the agreed price of $40.00 per month and there is due him for said service the sum of $28.66, which is wholly unpaid.

The said Jacob Multhauf between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under said employment as first engineer 21½ days at the agreed price of $100.00 per month, and there is due him for such service the sum of $71.66, which is wholly unpaid.

The said Walter Kaiser between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment as second engineer 21½ days at the agreed price of sixty dollars ($60.00) per month, and there is due him for such service the sum of $43.00, which is wholly unpaid.

The said James Clune between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under such employment as fireman 21½ days at the agreed price of $40.00 per month, and there is due him for such service the sum of $28.66, which is wholly unpaid.

The said Otil Cole between the first day of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under said employment as fireman 21½ days at the agreed

price of $40.00 per month, and there is due him for such service the sum of $28.66, which is wholly unpaid.

8 The said Geo. Raabe during the month of August, 1892, rendered service on the said steamer Three Sisters under the said employment as captain 9⅔ days at the agreed price of $125.00 per month, and there is due him for such service the sum of $40.32, which is wholly unpaid, and also rendered service during the entire months of September and October, 1892, on the said steamer Three Sisters under the said employment as captain and watchman in charge of said boat at the agreed price of $125.00 per month, and there is due him for such service the sum of $250.00, which is wholly unpaid.

Second. These libellants say that all of said services were performed by them and each of them, as aforesaid, on board of the said steamer Three Sisters as seamen under said contract of hiring; that during the whole time above stated that the above-named libellants were in the service of said steamer each respectively well and truly performed his duty according to the best of his ability and deserves and ought to be paid the wages due to each of the said libellants, amounting in the case of each libellant respectively as follows, to wit:

R. J. Young	$89 58
M. Bell	71 66
C. A. Bell	28 66
H. Robertson	28 66
W. Howell	28 66
D. Latereaux	8 40
A. Senn	8 40
W. Young	28 66
Jacob Multhauf	71 66
Walter Kaiser	43 00
James Clune	28 66
Otis Cole	28 66
Geo. Raabe	290 32

Third. That until on or about December 22, 1894, the said
9 steamer Three Sisters remained in the control and possession of the receivers so appointed, as aforesaid, by the said circuit court of the State of Oregon for the county of Benton; that on or about the said December 22, 1894, all of the property of the said Oregon Pacific Railroad Company, including the said steamer Three Sisters, was sold under execution issuing out of the said circuit court of the State of Oregon for the county of Benton in the said suit of The Farmers' Loan & Trust Company, plaintiff, against The Oregon Pacific Railroad Company and The Willamette Valley and Coast Railroad Company, and all of the said property of the Oregon Pacific Railroad Company, including the said steamer Three Sisters, was purchased at the said sale by one A. B. Hammond and one —— Bonner, and that since the said date the said steamer Three Sisters has been in the possession of the said Bonner and of the said Ham-

mond, and is now in their possession as purchasers under the said sale as aforesaid.

Fourth. That the wages due to the said libellants and each of them have been from time to time demanded of the said Oregon Pacific Railroad Company and of its said receivers and from the said Bonner and the said Hammond, and that the said persons and each of them have refused to pay the wages due the libellants or any part thereof, and that the said wages due the said libellants and each of them are a lien upon the said steamer Three Sisters under title three of chapter 55 of Hill's Annotated Laws of the State of Oregon and under the practice of this honorable court; that the said steamer Three Sisters is now upon the Willamette river and within the jurisdiction of this honorable court.

Fifth. That during the time the said steamer Three Sisters was in the possession of the said receivers so appointed by the circuit court of the State of Oregon for the county of Benton, as aforesaid, the libellants and each of them moved the said circuit court
10 of the State of Oregon for the county of Benton for permission to proceed in this honorable court against the said steamer Three Sisters for the purpose of collecting the wages so due to the libellants and each of them, as aforesaid, but that the said court declined to grant said permission for the reason that the said property was soon thereafter to be sold under a decree of the said court; that at the time of the sale, as aforesaid, of the property of the Oregon Pacific Railroad Company, including the said steamer Three Sisters, and before the said property, including the said steamer Three Sisters, was sold these libellants and each of them notified all intending purchasers and the said Bonner and Hammond that these libellants and each of them had a lien upon the said steamer Three Sisters for services performed upon the said steamer, as aforesaid, and for the amounts stated herein.

Sixth. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that process in due form of law, according to the procedure of this honorable court in causes of admiralty and maritime jurisdiction, will issue against the said steamer Three Sisters, her engines, boilers, tackle, apparel, and furniture, and that all persons claiming any right, title, or interest in said vessel, her engines, boilers, tackle, apparel, furniture, may be cited to appear and answer all and singular the matters herein set forth, and that this honorable court would be pleased to decree the payment of the wages aforesaid, with interest due thereon, and that they may be decreed a lien on said steamer paramount to any and all other claims, liens, or interest of whatsoever kind or nature, and that the said steamer may be condemned to be sold, with her engines, boilers, tackle, apparel, and furniture, to pay the several claims of these libellants and interest thereon and costs, and that these libellants may have such other and further relief in the premises as in
11 law and justice them may be entitled to receive.

W. W. COTTON & J. M. LONG,
Proctors for Libellants.

STATE OF OREGON, *County of Multnomah,* } ss:

I, C. A. Bell, being duly sworn, depose and say that I am one of the libellants in the foregoing cause; that I have read the libel and know the facts therein stated, and that the matters therein stated are true.

C. A. BELL.

Subscribed and sworn to before me this 11 day of April, 1895.

[SEAL.] W. E. MITCHELL,
Notary Public for Oregon.

Endorsed: Filed April 12, 1895. R. B. Lamson, Clerk.

11½ And afterwards, to wit, on the 12th day of April, 1895, there was issued out of said court a warrant in words and figures as follows, to wit:

12 *Return in Case of Admiralty Seizure.*

UNITED STATES OF AMERICA, *District of Oregon,* } ss:

In obedience to the command of the within writ I did, on the 13th day of April, 1895, at the port of Portland, in the district of Oregon, — by serving a duly certified copy of this writ at said time upon W. T. Muir, who is attorney for A. B. Hammond, who is the owner of said steamer and in charge thereof. I served upon W. T. Muir, who is attorney for the owner of said steamer, personally a duly certified copy of the libel in the therein-entitled cause, at Portland, on the 13th day of April, 1895.

The proctor for the libellant having directed that no publication of citation be made therein, I have not published such citation.

Subsequently and on the 17th day of April, 1895, upon claim being filed by the Oregon Central and Eastern R. R. Co., and the said claimant having given a good and sufficient bond in double the amount claimed by the libellant, to wit, in the sum of $1,600.00, which bond was duly approved by Charles B. Bellinger, U. S. district judge, conditioned to abide by and answer the decree of the court in said cause, I released said steamer The Three Sisters to said claimant, upon said bond aforesaid, with her tackle, apparel, and furniture. The above-mentioned bond is herewith returned.

HENRY C. GRADY,
U. S. Marshal,
(S'g'd) By L. C. DRIGGS, *Deputy.*

Dated at Portland, Oregon, this 17th day of April, 1895.

13 *Warrant of Arrest and Monition.*

UNITED STATES OF AMERICA, } ss:
District of Oregon, }

The President of the United States of America to the marshal of the district of Oregon or his deputy, Greeting:

You are hereby strictly enjoined and commanded that you arrest the vessel called the Three Sisters, whereof —— —— now is or lately was master, her boats, tackle, apparel, and furniture, if she shall be found within your district, and the same so arrested you keep under safe and secure arrest until you shall receive further orders from the court or the same shall be discharged in due course of law, and that you site at the premises all persons in general who have or pretend to have any right, title, or interest therein to appear before the judge of the district court of the United States for the district of Oregon, at the city of Portland, on the 6th day of May, A. D. 1895, if it be a court day, or else on the court day next following, at ten o'clock in the forenoon of such day, then and there to answer unto R. J. Young, M. Bell, C. A. Bell, H. Robertson, W. Howell, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe in the cause of contract for seaman's wages, civil and maritime, and further to do and to receive in this behalf as to justice shall appertain, and that you duly certify the court aforesaid what you shall do in the premises, together with these presents.

Witness the Honorable Charles B. Bellinger, judge of said court, and the seal thereof, hereto affixed at Portland, in said district, on the 12th day of April, A. D. 1895.

[Seal United States District Court, Oregon.]

R. B. LAMSON, *Clerk*,
By G. H. MARSH,
Deputy Clerk.

Endorsed: Returned and filed October 28, 1895. E. D. McKee, clerk.

14 And afterwards, to wit, on the 17th day of April, 1895, there was duly filed in said court a claim of owner in words and figures as follows, to wit:

15 DISTRICT OF OREGON, ss:

To the Hon. Charles B. Bellinger, judge of the district court of the United States for said district:

I, A. B. Hammond, of Portland, in the district of Oregon, for and on behalf of the Oregon Central and Eastern Railroad Company, a corporation, owner of the vessel called the Three Sisters, her tackle, apparel, and furniture, intervening for interest in said vessel, her

tackle, &c., appear before this honorable court and claim said vessel, her tackle, &c., and state that the said Oregon Central and Eastern Railroad Company is the true and *bona fide* owner thereof; and thereupon the said claimant prays that this honorable court will be pleased to decree to said corporation a restitution of the said vessel, her tackle, &c., and otherwise right and justice to administer in the premises.

And the said A. B. Hammond, being duly sworn, deposes and says that no other persons except the said Oregon Central and Eastern Railroad Company are owners of the said vessel, her tackle, &c., or of any part thereof, and that this affiant is the president and agent of said corporation.

A. B. HAMMOND, *Pres't.*

Subscribed and sworn to before me this 16th day of April, 188-.

JOHN E. WALLACE,
[SEAL.] *Notary Public for Oregon.*

Endorsed: Filed April 17, 1895. R. B. Lamson, clerk.

16 And afterwards, to wit, on the 25th day of October, 1895, there was duly filed in said court claimant's stipulation to abide by and pay the decree in words and figures as follows, to wit:

17 In the District Court of the United States for the District of Oregon.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, Geo. Raabe, Libellants,

vs.

THE STEAMER THREE SISTERS, Respondent.

Whereas a libel was filed in this court on April 12th, 1895, by R. J. Young, M. Bell, C. A. Bell, H. Robertson, W. Howell, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and George Raabe against the steamer Three Sisters, her tackle, apparel, and furniture, for the reasons and causes in said libel mentioned, and praying that the same may be condemned and sold to answer the prayer of said libellant-, and a claim has been filed by the Oregon Central and Eastern Railroad Company, and the said claimant and Henry Failing, surety, the parties hereto, hereby consenting and *and* agreeing that in case of default or contumacy on the part of the claimant or said surety execution may issue against their goods, chattels, and lands for the sum of sixteen hundred & $\frac{00}{100}$ dollars:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be and are bound in the sum of sixteen hundred and no $\frac{00}{100}$ dollars,

conditioned that the claimant above named shall abide by
18 and pay the money awarded by the final decree rendered in the cause by this court, or, in case of appeal, by the appellate court.

OREGON CENTRAL & EASTERN RAILROAD CO.,
By A. B. HAMMOND, *Pres't.*
HENRY FAILING, *Surety.*

Taken and acknowledged before me this —, 1895.

—— ——.

DISTRICT OF OREGON, *ss:*

I, Henry Failing, of Portland, Multnomah county, Oregon, being duly sworn, depose and say that I reside in the district of Oregon, and that I am a householder in said district and am worth the sum of thirty-two hundred & no $\frac{}{100}$ dollars over and above all my just debts and liabilities.

HENRY FAILING.

Subscribed and sworn to before me this 17th April, 1895.
[SEAL.] B. F. STEVENS,
Notary Public for Oregon.

Approved:
CHARLES B. BELLINGER, *Judge.*

Endorsed: Filed October 8, 1895. E. D. McKee, clerk.

19 And, to wit, on the 4th day of May, 1895, there was duly filed in said court a stipulation in words and figures as follows, to wit:

20 In the District Court of the United States for the District of Oregon.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, Libellants,

vs.

THE THREE SISTERS, HER ENGINES, TACKLE, ETC., Claimant.

A libel having been filed in this cause and a warrant having been issued for the arrest on the process issued in this cause, and the Oregon Eastern and Central Railroad Company, the owner of said vessel, having come forward and proposed to file a claim with Henry Failing as surety and entered into the usual stipulation for costs and value, the latter in the sum of $1,600.00 in the same manner as if said vessel were arrested and were to be discharged on stipulation, it is hereby agreed that the said cause shall in all things proceed as if said vessel had been arrested and discharged on stipulation and citations duly published, and publication is hereby

waived, and answer to said libel is to be filed on or before 6 of May, 1895, after the date hereof; otherwise default to be entered the same as if said vessel had been seized and citation duly issued.

W. W. COTTON &
J. M. LONG,
Proctor- for Libellants.
WM. T. MUIR,
Of Proctors for Claimant.

Endorsed: Filed May 4, 1895. E. D. McKee, clerk.

21 And afterwards, to wit, on the 4th day of May, 1895, there *was* duly filed in said court exceptions to libel in words and figures as follows, to wit:

22 In the District Court of the United States for the District of Oregon.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, W. H. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhaup, Walter Kaiser, James Clune, Otes Cole, and Geo. Raabe, Libellants,

vs.

THE STEAMER THREE SISTERS, Respondent; THE OREGON CENTRAL & EASTERN RAILROAD COMPANY, Claimants.

To the Hon. Charles B. Bellinger, judge of the above-entitled court:

The exceptions of A. B. Hammond and E. L. Bonner, claimants herein, to the libel of said libellants allege that the said libel is informal and insufficient as follows:

First. That the same shows that at the time the said libellants and each of them were employed the said steamer Three Sisters was in charge of and being operated by a receiver of the Oregon Pacific Railroad Company, a corporation, the owner of said steamer, said receiver having been duly appointed by the circuit court of the State of Oregon for Benton county, and that all of the services performed by said libellants and each of them, mentioned in said libel, were performed while said steamer was in the possession of and being operated by said receiver, and that no maritime or other lien arose by reason of such employment or the rendition of said services.

Second. That the said libel shows that this court has no jurisdiction in the premises.

Portland, Or., May 4th, 1895.

J. T. WHALLEY &
WM. T. MUIR,
Proctors for Claimants.

23 STATE OF OREGON, }
County of Multnomah, } ss:

Due service of the within exceptions is hereby accepted, in Multnomah county, Oregon, this 4th day of May, 1895, by receiving a

copy thereof, duly certified to as such, by Wm. T. Muir, of proctors for claimants.

J. M. LONG,
Of Proctors for —.

Endorsed: Filed May 4, 1895. E. D. McKee, clerk.

24 And afterwards, to wit, on the 9th day of May, 1895, there was duly filed in said court a notice of hearing of exceptions in words and figures as follows, to wit:

25 In the District Court of the United States for the District of Oregon.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, W. H. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, Libellants,

vs.

THE STEAMER THREE SISTERS, Respondent; A. B. HAMMOND and E. L. BONNER, Claimants.

To A. B Hammond and E. L. Bonner, claimants, and J. W. Whalley and W. T. Muir, proctors for the claimants:

You and each of you will take notice that the libellants above named in the above-entitled proceedings have set down for hearing on the first Monday of June, 1895, the exceptions filed to the libel in the above-entitled suit.

COX, COTTON, TEAL & MINOR,
Proctors for Libellants.

Service by copy admitted, at Portland, Oregon, May 8th, 1895.
WM. T. MUIR,
Of Proctors for Claimants.

Endorsed: Filed May 9, 1895. E. D. McKee, clerk.

26 And afterwards, to wit, on Monday, the 10th day of June, 1895, the same being the 84th judicial day of the regular March term of said court—present, the Honorable Charles B. Bellinger, United States district judge, presiding—the following proceedings were had in said case, to wit:

27 In the District Court of the United States for the District of Oregon.

THE STEAMER THREE SISTERS—R. J. YOUNG *et al.*, Libellants. No. 3941.

JUNE 10, 1895.

Now, at this day, on motion of Mr. Wm. T. Muir, of counsel for claimants, it is ordered that this cause be, and the same is hereby, set for hearing on exceptions to the libel on Wednesday, June 15, 1895.

28 And afterwards, to wit, on Saturday, the 13th day of July, 1895, the same being the 11th judicial day of the regular July term of said court—present, the Honorable Charles B. Bellinger, United States district judge, presiding—the following proceedings were had in said case, to wit:

29 In the District Court of the United States for the District of Oregon.

THE STEAMER THREE SISTERS—R. J. YOUNG *et al.*, Libellants. No. 3941.

JULY 13, 1895.

Now, at this day, on motion of Mr. W. T. Muir, of counsel for the claimant, it is ordered that this cause be, and the same is hereby, set for hearing on exceptions to the libel on Wednesday, July 24, 1895.

30 And afterwards, to wit, on Wednesday, the 24th day of July, 1895, the same being the 20th judicial day of the regular July term of said court—present, the Honorable Charles B. Bellinger, United States district judge, presiding—the following proceedings were had in said case, to wit:

31 In the District Court of the United States for the District of Oregon.

THE STEAMER THREE SISTERS—R. J. YOUNG *et al.*, Libellants. No. 3941.

JULY 24, 1895.

Now, at this day, come the libellants, by Mr. W. W. Cotton, of counsel, and the claimant, by Mr. Wm. T. Muir and Mr. J. R. Bryson, of counsel, and, on motion of said claimant, it is ordered that this cause be, and the same is hereby, set for hearing on the exceptions to the libel on Tuesday, August 6th, 1895.

32 And afterwards, to wit, on Tuesday, the 6th day of August, 1895, the same being the 31st judicial day of the regular July term of said court—present, the Honorable Charles B. Bellinger, United States district judge, presiding—the following proceedings were had in said case, to wit:

33 In the District Court of the United States for the District of Oregon.

THE STEAMER THREE SISTERS—R. J. YOUNG *et al.*, Libellants. No. 3941.

AUGUST 6, 1895.

Now, at this day, come the libellants, by Mr. W. W. Cotton, of counsel, and the claimant, by Mr. Wm. T. Muir and Mr. J. R. Bryson, of counsel, and thereupon this cause comes on to be heard upon the exceptions to the libel herein, and the court, having heard the arguments of counsel, will advise thereof.

Whereupon it is ordered that said libellants be, and they are hereby, allowed to file an amended libel herein, and said claimant be, and it is hereby, allowed to file exceptions to said amended libel.

34 And afterwards, to wit, on the 12th day of August, 1895, there was duly filed in said court an amended libel in words and figures as follows, to wit:

35 In the District Court of the United States for the District of Oregon.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, Libellants,

vs.

THE STEAMER THREE SISTERS, Respondent.

To the Honorable Charles B. Bellinger, judge of the United States district court for the district of Oregon, sitting in admiralty:

By leave of the court first had and obtained, R. J. Young, M. Bell, C. A. Bell, H. Robertson, W. Howell, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe exhibit this their libel against the steamer Three Sisters, her engines, boilers, tackle, apparel, and furniture, and against all persons claiming and intervening for their interests therein in a cause for subtraction of wages on a contract, civil and maritime, and showeth:

First. That the steamer Three Sisters during the years 1892 and 1893 was engaged in navigating the waters of the Willamette river in the State of Oregon and is still engaged in navigating the waters of the said river within the said State; that during all of said time the Oregon Pacific Railroad Company was the owner of said steamer, but that during all of said time the property of the said Oregon Pacific Railroad Company, including the said steamer Three Sisters, was in the possession and under the control of receivers thereof duly appointed by the circuit court of the State of Oregon for the county of Benton in the suit of The Farmers' Loan and Trust Company, trustee, *vs.* The Oregon Pacific Railroad Company and

36 The Willamette Valley & Coast Railroad Company; that by the order of the said court appointing the said receivers the said receivers were required, authorized, and directed to continue the operation as a going concern of the railroads of the defendants and of the steamboat and steamship lines of the defendant operated in connection therewith, including the said steamer Three Sisters, and that during the said years 1892 and 1893 the said steamer Three Sisters was operated by the said receivers under the said orders and was so being operated at the time of the employment of the libellants and — of them thereon; that during all of said time the said steamer Three Sisters was employed by the said

receivers under the said orders of the said court in navigating the Willamette river and in transporting freight and passengers thereon, including the freight and passengers destined to points in the various States of the United States other than the State of Oregon; that the said Oregon Pacific Railroad Company, acting through its said receivers so appointed as aforesaid, hired the said libellants on board the said steamer Three Sisters in the capacity, for the length of time, and at the agreed wages as follows, to wit:

The said R. J. Young between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment 21½ days as captain of the said steamer at the agreed price of $125.00 per month, and there is due him for such services the sum of $89.58, which is wholly unpaid.

That said M. Bell between the first of November and the 20th of December, 1893, rendered services on the said steamer Three Sisters under the said employment as mate 21½ days at the agreed price of $100.00 per month, and there is due him for such services the sum of $71.66, which is wholly unpaid.

The said C. A. Bell between the first of November and the 20th of December, 1893, rendered services on the said steamer Three Sisters under the said employment as deck hand 21½ days at
37 the agreed price of $40.00 per month, and there is due him for said services the sum of $28.66, which is wholly unpaid.

The said H. Robertson between the first of November and the 20th of December, 1893, rendered services on the said steamer Three Sisters under the said employment as deck hand 21½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $28.66, which is wholly unpaid.

The said W. Howell between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment as deck hand 21½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $28.66, which is wholly unpaid.

The said D. Latereaux between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment as deck hand 6½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $8.40, which is wholly unpaid.

The said A. Senn between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under said employment as deck hand 6½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $8.40, which is wholly unpaid.

The said W. Young between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under said employment as watchman 21½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $28.66, which is wholly unpaid.

The said Jacob Multhauf between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under said employment as first engineer 21½ days at the

agreed price of $100.00 per month, and there is due him for such service the sum of $71.66, which is wholly unpaid.

38 The said Walter Kaiser between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment as second engineer 21½ days at the agreed price of sixty dollars ($60.00) per month, and there is due him for such service the sum of $43.00, which is wholly unpaid.

The said James Clune between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under such employment as fireman 21½ days at the agreed price of $40.00 per month, and there is due him for such service the sum of $28.66, which is wholly unpaid.

The said Otis Cole between the first day of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under said employment as fireman 21½ days at the agreed price of $40.00 per month, and there is due him for such service the sum of $28.66, which is wholly unpaid.

The said Geo. Raabe during the month of August, 1892, rendered service on the said steamer Three Sisters under the said employment as captain 9⅔ days at the agreed price of $125.00 per month, and there is due him for such service the sum of $40.32, which is wholly unpaid, and also rendered service during the entire months of September and October, 1892, on the said steamer Three Sisters under the said employment as captain and watchman in charge of said boat at the agreed price of $125.00 per month, and there is due him for such service the sum of $250.00, which is wholly unpaid.

2. The said R. J. Young for himself says that during the time of his employment upon the said steamer Three Sisters the said steamer was being operated by the said receivers of the Oregon Pacific Railroad Company as a regular boat upon the Willamette river between points and places at which the said receiver- had regular agents; that during the said time there was on the said steamer an

39 officer known as the purser; that the said agents of the said receivers and the said purser collected and received all the earnings of the said boat from both passengers and freight and paid over the said earnings in the ordinary course of business to the said receivers; that none of the earnings of the said boat passed through the hands of the said Young; that the sole duties of the said Young consisted in navigating the said steamer Three Sisters upon the route selected by the said receivers, all within the said State of Oregon, and that all the supplies and materials for the said boat were purchased by the said receiver- through other agents and servants.

3. The said Geo. Raabe for himself says that the service rendered by him was service similar in kind to that rendered by the said R. J. Young and was rendered under circumstances similar to those stated in the preceding allegation as to the services of said Young, and that during the said time the said Raabe received none of the earnings of the said boat and none of the same passed through his hands, but were paid over to the said receivers by the said purser and the said other agents of the said receivers, and that the sole and

only duties of the said Raabe consisted in navigating the said boat upon routes selected by the said receivers, all within the State of Oregon; that during the months of September and October, 1892, the said steamer Three Sisters was tied up and all of the crew, with the exception of the said Raabe, were discharged by the said receivers, but that the said Raabe was retained to watch the said boat and care for the same, and that the only duties to be performed by the said Raabe were those of watchman.

4. These libellants say that all of said services were performed by them and each of them, as aforesaid, on board of the said steamer Three Sisters as seamen under said contract of hiring; that during the whole time above stated that the above-named libellants were in the service of said steamer each respectively well and truly
40 performed his duty to the best of his ability and deserves and ought to be paid the wages due to each of the said libellants, amounting in the case of each libellant respectively as follows, to wit:

R. J. Young	$89 58
M. Bell	71 66
C. A. Bell	28 66
H. Robertson	28 66
W. Howell	28 66
D. Latereaux	8 40
A. Senn	8 40
W. Young	28 66
Jacob Multhauf	71 66
Walter Kaiser	43 00
James Clune	28 66
Otis Cole	28 66
Geo. Raabe	290 32

5. That until — or about December 22, 1894, the said steamer Three Sisters remained in the control and possession of the receivers so appointed, as aforesaid, by the said circuit court of the State of Oregon for the county of Benton; that the said suit of The Farmers' Loan & Trust Company against The Oregon Pacific Railroad Company and The Willamette Valley & Coast Railroad Company was brought for the purpose of foreclosing a mortgage or deed of trust conveyed to the said Farmers' Loan & Trust Company of the entire property of the said Oregon Pacific Railroad Company for the purpose of securing an issue of bonds made by the said Oregon Pacific Railroad Company, and that the said receivers so appointed, as aforesaid, were appointed for the purpose of operating said railroad and steamboat lines of the said Oregon Pacific Railroad Company, including the said steamer Three Sisters, pending the foreclosure of the said mortgage or deed of trust, and were so appointed at the instance of the said Farmers' Loan & Trust Company, trus-
41 tee, as aforesaid; that on or about the said December 22, 1894, all of the property of the said Oregon Pacific Railroad Company, including the said steamer Three Sisters, was sold under execution issued out of the said circuit court of the State of Oregon

for the county of Benton in the said suit of The Farmers' Loan and Trust Company, trustee, *vs.* The Oregon Pacific Railroad Company and The Willamette Valley & Coast Railroad Company, and that all of the said property of the said Oregon Pacific Railroad Company, including the said steamer Three Sisters, was purchased at the said sale by one A. B. Hammond and E. L. Bonner, and that since said date the said steamer Three Sisters has been in the possession of the said Bonner and of the said Hammond and is now in their possession as purchasers under the said sale as aforesaid.

6. That the wages due the said libellants and each of them have been from time to time demanded of the said Oregon Pacific Railroad Company and of its said receivers and from the said Bonner and Hammond, and that all of said persons and each of them have refused to pay the wages due the libellants or any part thereof, and that the said wages due said libellants and each of them are a lien upon the said steamer Three Sisters under title 3, chapter 55, of Hill's Annotated Laws of the State of Oregon and under the law and practice of this honorable court; that the said steamer Three Sisters is now upon the Willamette river and within the jurisdiction of this honorable court.

7. That during the time the said steamer Three Sisters was in the possession of the said receivers so appointed by the circuit court of the State of Oregon for the county of Benton, as aforesaid, the libellants and each of them moved the said circuit court of the State of Oregon for the county of Benton for permission to proceed in this honorable court against the said steamer Three Sisters for
42 the purpose of collecting the wages so due to the libellants and each of them, as aforesaid, but that the said court declined to grant said permission, for the reason that the said property was soon thereafter to be sold under a decree of the said court; that at the time of the sale, as aforesaid, of the property of the Oregon Pacific Railroad Company, including the said steamer Three Sisters, and before the said property, including the said steamer Three Sisters, was sold these libellants and each of them notified all intending purchasers and the said Bonner and Hammond that these libellants and each of them had a lien upon the steamer Three Sisters for services performed upon the said steamer, as aforesaid, and for the amounts stated herein.

Wherefore libellants pray that process in due form of law according to the proceedure of this honorable court in causes of admiralty and maritime jurisdiction will issue against the said steamer Three Sisters, her engines, boilers, tackle, apparel, and furniture, and that all persons claiming any right, title, or interest in said vessel, her engines, boilers, tackle, apparel, or furniture, may be cited to appear and answer all and singular the matters herein set forth, and that this honorable court would be pleased to decree the payment of the wages aforesaid, with interest due thereon, and that they may be decreed a lien on said steamer paramount to any and all other claims, liens, or interest of whatsoever kind or nature, and that the said steamer may be condemned to be sold, with her engines, boilers, tackle, apparel, and furniture, to pay the several claims of

these libellants and interest thereon and costs, and that these libellants may have such other and further relief in the premises as in law and justice they may be entitled to receive.

COX, COTTON, TEAL & MINOR,
Proctors for Libellants.

43 STATE OF OREGON, }
County of Multnomah, } *ss:*

I, C. A. Bell, being duly sworn, depose and say that I am one of the libellants in the foregoing cause; that I have read the libel and know the facts therein stated, and that the matters therein stated are true.

C. A. BELL.

Subscribed and sworn to before me this 10th day of Aug., 1895.
[SEAL.] W. E. MITCHELL,
Notary Public for Oregon.

Service by copy admitted at Portland, Oregon, Aug. 10, 1895.
J. W. WHALLEY,
Of Attorney for Resp.

Endorsed: Filed August 12, 1895. E. D. McKee, clerk.

44 And afterwards, to wit, on the 12th day of August, 1895, there was duly filed in said court a stipulation in words and figures as follows, to wit:

45 In the District Court of the United States for the District of Oregon.

R. J. YOUNG and Others, Libellants,
vs.
THE STEAMER THREE SISTERS, Respondent.

R. J. YOUNG and Others, Libellants,
vs.
THE STEAMER WILLIAM M. HOAG, Respondent.

It is stipulated by and between the proctors for the respective parties that the signing of the amended libels in each of said suits by the respective libellants is waived.

COX, COTTON, TEAL & MINOR,
Proctors for Libellants.
WHALLEY & MUIR,
Proctors for Claimants.

Endorsed: Filed August 12, 1895. E. D. McKee, clerk.

46 And afterwards, to wit, on the 12th day of August, 1895, there *was* duly filed in said court exceptions to amended libel in words and figures as follows, to wit:

47 In the District Court of the United States for the District of Oregon.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, Libellants,

vs.

THE STEAMER THREE SISTERS, Respondents; THE OREGON CENTRAL AND EASTERN RAILROAD COMPANY, Claimants.

To the Honorable Charles B. Bellinger, judge of the above-entitled court:

The amended exceptions of A. B. Hammond and E. L. Bonner, claimants herein, to the libel of said libellants filed by leave of court and on consent of parties allege that the said libel is informal and insufficient as follows:

First. That the same shows that at the time the said libellants and each of them were employed the said steamer Three Sisters was in charge of and being operated by a receiver of the Oregon Pacific Railroad Company, a corporation, the owner of said steamer, said receiver having been duly appointed by the circuit court of the State of Oregon for Benton county, and that all of the services performed by said libellants and each of them, mentioned in said libel, were performed while said steamer was in the possession of and being operated by said receiver, and that no maritime lien arose by reason of such employment or the rendition of said services.

Second. That the said libel shows that this court has no jurisdiction in the premises.

Third. That the said libel shows that the services alleged to have been performed by said R. J. Young of the alleged value of
48 $89.58 were performed by said Young as master, and no lien arises therefrom.

Fourth. That the said libel shows that the said Young did not file his said libel until after the expiration of one year from the rendition of said alleged services.

Fifth. That the said libel shows that the said services alleged to have been rendered by said Geo. Raabe of the alleged value of $290.32 were performed by said Raabe as master, and no lien arises therefrom.

Sixth. The said libel shows that the said Raabe did not file his said libel until after the expiration of one year from the rendition of said alleged services.

Portland, Or., Aug., 1895.

J. W. WHALLEY,
WM. T. MUIR,
J. R. BRYSON,
Proctors for Claimants.

STATE OF OREGON, } ss:
County of Multnomah, }

Due service of the within amended exceptions *are* hereby accepted, in Multnomah county, Oregon, this 8th day of Aug., 1895, by receiving a copy thereof, duly certified to as such, by Wm. T. Muir, proctor for claimants.

COX, COTTON, TEAL & MINOR,
Proctors for Libellants.

Endorsed: Filed August 12, 1895. E. D. McKee, clerk.

49 And afterwards, to wit, on Tuesday, the 24th day of September, 1895, the same being the 73d judicial day of the regular July term of said court—present, the Honorable Charles B. Bellinger, United States district judge, presiding—the following proceedings were had in said case, to wit:

50 In the District Court of the United States for the District of Oregon.

THE STEAMER THREE SISTERS—R. J. YOUNG *et al.*, Libellants. No. 3941.

SEPTEMBER 24, 1895.

This cause was heard upon the exceptions to the libel and was argued by Mr. W. W. Cotton, of counsel for the libellants, and by Mr. W. T. Muir and Mr. J. R. Bryson, of counsel for the claimant; on consideration whereof it is ordered and adjudged that said exceptions be, and the same are hereby, overruled; and, on motion of said claimants, it is ordered that they be, and they are hereby, allowed ten days from this date in which to answer the libel.

51 And afterwards, to wit, on the 25th day of October, 1895, there was duly filed in said court a stipulation in words and figures as follows, to wit:

52 In the District Court of the United States for the District of Oregon.

THE THREE SISTERS—R. J. YOUNG *et al.*, Libellants; OREGON CENTRAL AND EASTERN RAILROAD COMPANY, Claimant.

It is hereby stipulated by and between the proctors for the libellants and claimant that this cause came on for hearing before the district court on the amended libel and the amended exceptions, and that when said exceptions were overruled the claimant did not desire to answer, but desired to stand upon such exceptions.

Dated October 25th, 1895.

COX, COTTON, TEAL & MINOR,
Proctors for Libellants.
WM. T. MUIR, *Of Proctors for Claimant.*

Endorsed: Filed October 25, 1895. E. D. McKee, clerk.

53 And afterwards, to wit, on Friday, the 25th day of October, 1895, the same being the 100th judicial day of the regular July term of said court—present, the Honorable Charles B. Bellinger, United States district judge, presiding—the following proceedings were had in said case, to wit:

54 In the District Court of the United States for the District of Oregon.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, Libellants,

vs.

THE STEAMER THREE SISTERS—THE OREGON CENTRAL & EASTERN RAILROAD COMPANY, Claimant.

This cause was heard upon the amended libel of R. J. Young, M. Bell, C. A. Bell, H. Robertson, W. Howell, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe and the amended exceptions thereto filed by the claimant, The Oregon Central & Eastern Railroad Company, and the said exceptions and each of them were heretofore overruled and the claimant obtained leave to answer; and it now appearing to the court that the claimant has failed to answer the said libel within the time allowed by the order of the court heretofore entered, and that, as appears by the stipulation of the proctors for the claimant on file, the said claimant does not desire to answer said libel and elects to stand upon said exceptions, and the said claimant being now in default, said default, on motion of W. W. Cotton, proctor for said libellants, is hereby entered against said steamer Three Sisters and against said claimant, The Oregon Central & Eastern Railroad Company; and it further appearing to the court that the said steamer Three Sisters, her boilers, engines, machinery, tackle, apparel, and furniture, are indebted to the libellants herein, as set forth in their said libel, in the following sums, namely:

To the libellant R. J. Young, for services performed on said steamer Three Sisters, in the sum of $89.58, with interest
55 thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant M. Bell, for services performed on said steamer Three Sisters, in the sum of $71.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant C. A. Bell, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant H. Robertson, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at

the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant W. Howell, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant D. Latereaux, for services performed on said steamer Three Sisters, in the sum of $8.40, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant A. Senn, for services performed on said steamer Three Sisters, in the sum of $8.40, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant W. Young, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant Jacob Multhauf, for services performed on said steamer Three Sisters, in the sum of $71.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of
56 December, 1893, to the date of this decree.

To the libellant Walter Kaiser, for services performed on said steamer Three Sisters, in the sum of $43.00, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant James Clune, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant Otis Cole, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant Geo. Raabe, for services performed on said steamer Three Sisters as captain, in the sum of $40.32, with interest thereon from the first day of September, 1892, at the rate of eight per cent. per annum, to the date of this decree.

To the libellant Geo. Raabe, for services performed on said steamer Three Sisters as watchman, in the sum of $250.00, with interest thereon, at the rate of eight per cent. per annum, from the first day of November, 1892, to the date of this decree.

And it further appearing that the said steamer Three Sisters was released from arrest in this cause upon the stipulation of the claimant, The Oregon Central & Eastern Railroad Company, with Henry Failing as surety, in the sum of $1,600.00—

It is therefore pronounced, adjudged, and decreed that the said libellants have and recover from the said claimant, The Oregon Central & Eastern Railroad Company, the following sums—that is to say:

R. J. Young, the sum of	$102 20	W. Young, the sum of	$32 88
M. Bell, " " "	82 11	A. Senn, " " "	9 64
C. A. Bell, " " "	32 88	Jacob Multhauf, " "	82 11

57

H. Robertson, the sum of	32 88	Walter Kaiser, the sum of	49 34
W. Howell, " " "	32 88	James Clune, " " "	32 88
D. Latereaux, " " "	9 64	Otis Cole, " " "	32 88
Geo. Raabe, the sum of	360 15		

all in gold coin of the United States, and that the said libellants and each of them further recover from the said claimant their costs and disbursements herein, taxed and fixed by the court in the sum of $57.68.

And it is further ordered, considered, and adjudged by the court that in case said sums and each of them be not paid into the registry of this court within thirty days from the date of this decree that execution therefor issue against the said claimant and the said Henry Failing, surety, upon the said bond given for the release of the said vessel.

And it is further ordered that the clerk distribute said amount as follows:

First. To the payment of the costs and disbursements herein.

Second. To the payment of the amounts herein decreed to be due said libellants.

CHARLES B. BELLINGER, *Judge.*

Endorsed: Filed October 25, 1895. E. D. McKee, clerk.

58 And afterwards, to wit, on the 25th day of October, 1895, there was duly filed in said court cost bill in words and figures as follows, to wit:

59 In the District Court of the United States for the District of Oregon.

R. J. YOUNG and Others, Libellants, Plaintiff-,
vs.
THE STEAMER THREE SISTERS—OREGON CENTRAL AND EASTERN RAILROAD COMPANY, Defendant-. } No. 3941.

Statement of disbursements claimed by the libellants in the above-entitled cause, viz:

Clerk's fees	$17 10
Marshal's fees	15 58
Costs in State circuit court	
Attorneys' fee, including argument of exceptions	25 00
Attorneys' fee for taking — depositions, at $2.50 each	
Depositions	
Examiner's fees	
Referee's fees	
Witness fees	
Total taxed at	57 68

E. D. McKEE, *Clerk,*
By G. H. MARSH, *Deputy.*

Endorsed: Filed Oct. 25, 1895. E. D. McKee, clerk.

60 And afterwards, to wit, on the 25th day of November, 1895, there was duly filed in said court a notice of an appeal in words and figures as follows, to wit:

61 In the District Court of the United States for the District of Oregon. In Admiralty.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, Libellants and Respondents,

vs.

THE STEAMER THREE SISTERS—THE OREGON CENTRAL AND EASTERN RAILROAD COMPANY, Claimant and Appellant.

The above-named claimant, The Oregon Central and Eastern Railroad Company, conceiving itself aggrieved by the final judgment entered herein on the 25th day of October, 1895, in the above-entitled proceedings, does hereby appeal from said final judgment to the Supreme Court of the United States, and it prays that this its appeal may be allowed, and that the question of the jurisdiction of the above-entitled court to render the said judgment be certified to the Supreme Court of the United States, and that a transcript of the record and proceedings and papers upon which said judgment was made, duly authenticated, may be sent to the Supreme Court of the United States.

Portland, Or., Nov. 20, 1895.

J. W. WHALLEY AND
WM. T. MUIR,
Of Proctors for Claimant and Appellant.

STATE OF OREGON, }
Multnomah County, } *ss:*

Due service is hereby accepted of the foregoing notice of appeal this 21st day of Nov., 1895.

W. W. COTTON,
Of Proctors for Libellant- and Resp't-.

Endorsed: Filed November 25, 1895. E. D. McKee, clerk.

62 And afterwards, to wit, on the 25th day of November, 1895, there was duly filed in said court an assignment of errors in words and figures as follows, to wit:

63 In the District Court of the United States for the District of Oregon. In Admiralty.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, Libellants and Respondents,

vs.

THE STEAMER THREE SISTERS—THE OREGON CENTRAL AND EASTERN RAILROAD COMPANY, Claimant and Appellant.

Comes now the said Oregon Central and Eastern Railroad Company, and, having appealed from the final judgment and decree of the district court of the United States for the district of Oregon to the Supreme Court of the United States in the above-entitled cause of contract, civil and maritime, assigns the following as the errors upon which it intends to rely on said appeal:

First. The district court of the United States for the district of Oregon erred in overruling the exceptions and each of them to the amended libel.

Second. The district court of the United States for the district of Oregon erred in holding that the performance of the services or any of them mentioned in the amended libel gave rise to a maritime lien.

Third. The district court of the United States for the district of Oregon erred in holding that the libellants and each of them were entitled to and held a maritime lien on the said steamer Three Sisters for the sums due on account of the services mentioned in the amended libel.

Fourth. The district court of the United States for the district of Oregon erred in adjudging and decreeing that the said steamer Three Sisters be sold in the said proceedings to satisfy the said claims of said libellants.

64 Fifth. The district court of the United States for the district of Oregon erred in holding that the said court had jurisdiction in the said proceedings as to the claims of any of the libellants.

Sixth. The said district court of the United States for the district of Oregon erred in holding that libellants R. J. Young and Geo. Raabe had acquired a lien upon the said steamer Three Sisters on account of the services rendered by them respectively as master, and erred in holding that the right of said R. J. Young and Geo. Raabe for such services as master had not been barred by the stat-e of limitations.

Portland, Or., November 20, 1895.

J. W. WHALLEY &
WM. T. MUIR,
Of Proctors for Claimant and Appellant.

STATE OF OREGON, } ss:
County of Multnomah, }

Due service of the within errors of law is hereby accepted, in Multnomah county, this 21st day of Nov., 1895.

W. W. COTTON,
Of Proctors for Libellants & Resp.

Endorsed: Filed November 25, 1895. E. D. McKee, clerk.

65 And afterwards, to wit, on the 25th day of November, 1895, there was duly filed in said court a bond on appeal in words and figures as follows, to wit:

66 In the District Court of the United States for the District of Oregon. In Admiralty.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, Libellants and Respondents,

vs.

THE STEAMER THREE SISTERS—THE OREGON CENTRAL AND EASTERN RAILROAD COMPANY, Claimant and Appellant.

Know all men by these presents that we, The Oregon Central and Eastern Railroad Company, a corporation duly incorporated, organized, and existing under the general incorporation laws of the State of Oregon, and Henry Failing, of the city of Portland, Multnomah county, Oregon, are held and firmly bound unto the above-named R. J. Young, M. Bell, C. A. Bell, H. Robertson, W. Howell, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe in the sums following, to wit, the said R. J. Young in the sum of one hundred two and $\frac{21}{100}$ dollars, with interest; the said M. Bell in the sum of eighty-two and $\frac{11}{100}$ dollars, with interest; the said C. A. Bell in the sum of thirty-two and $\frac{88}{100}$ dollars, with interest; the said H. Robertson, thirty-two and $\frac{88}{100}$ dollars, with interest; the said W. Howell in the sum of thirty-two and $\frac{88}{100}$ dollars, with interest; the said D. Latereaux in the sum of nine and $\frac{64}{100}$ dollars, with interest; the said W. Young in the sum of thirty-two and $\frac{88}{100}$ dollars, with interest; the said A. Senn in the sum of nine and $\frac{64}{100}$ dollars, with interest; the said Jacob Multhauf in the sum of eighty-two and $\frac{11}{100}$ dollars, with interest; the said Walter Kaiser in the sum of forty-nine and $\frac{34}{100}$ dollars, with interest; the said James Clune in the sum of thirty-two and $\frac{88}{100}$ dollars, with interest; the said Otis
67 Cole in the sum of thirty-two and $\frac{88}{100}$ dollars, with interest; the said George Raabe in the sum of three hundred sixty and $\frac{15}{100}$ dollars, with interest, and costs and disbursements, the said sums to be paid to the said parties respectively; for the payment of which, well and truly to be made, the said Oregon Central and Eastern Railroad Company, a corporation, does hereby bind itself,

its successors and assigns, and the said Henry Failing does bind himself, his heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed, signed, and dated this 20th day of November, A. D. 1895.

Whereas the above-named Oregon Central and Eastern Railroad Company have prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled cause by the judge of the district court of the United States for the district of Oregon:

Now, therefore, the condition of this obligation is such that if the above-named Oregon Central and Eastern Railroad Company shall prosecute said appeal to effect and answer any judgment and all damages and costs if it fails to make said appeal good, then this obligation chall be void; otherwise the same shall be and remain in full force and virtue.

THE OREGON CENTRAL & EASTERN RAILROAD COMPANY, [SEAL.]
By WM. T. MUIR, *Of Proctors.*
HENRY FAILING, *Surety.* [SEAL.]

Approved:
CHARLES B. BELLINGER, *Judge.*

Endorsed: Filed November 25, 1895. E. D. McKee, clerk.

68 And afterwards, to wit, on the 25th day of November, 1895, there was duly filed in said court an allowance of appeal and certificate of district judge in words and figures as follows, to wit:

69 In the District Court of the United States for the District of Oregon. In Admiralty.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe, Libellants and Respondents,

vs.

THE STEAMER THREE SISTERS—THE OREGON CENTRAL AND EASTERN RAILROAD COMPANY, Claimant and Appellant.

Be it remembered that on this day in the above entitled cause came Wm. T. Muir, of proctors for the claimant and appellant, and filed herein his assignment of errors and petition for an allowance of an appeal herein to the Supreme Court of the United States from the decree herein rendered and made and entered on the 25th day of October, A. D. 1895; which decree is as follows, to wit:

70 "This cause was heard upon the amended libel of R. J. Young, M. Bell, C. A. Bell, H. Robertson, W. Howell, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe and the amended exceptions thereto filed by the claimant, The Oregon Central & Eastern Railroad Company, and the said exceptions and each of them were

heretofore overruled and the claimant obtained leave to answer; and it now appearing to the court that the claimant has failed to answer the said libel within the time allowed by the order of the court heretofore entered, and that, as appears by the stipulation of the proctors for the claimant on file, the said claimant does not desire to answer said libel and elects to stand upon said exceptions, and the said claimant being now in default, said default, on motion of W. W. Cotton, proctor for said libellants, is hereby entered against said steamer Three Sisters and against said claimant, The Oregon Central & Eastern Railroad Company; and it further appearing to the court that the said steamer Three Sisters, her boiler, engines, machinery, tackle, apparel, and furniture, are indebted to the libellants herein, as set forth in their said libel, in the following sums, namely:

To the libellant R. J. Young, for services performed on said
71 steamer Three Sisters, in the sum of $89.58, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant M. Bell, for services performed on said steamer Three Sisters, in the sum of $71.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant C. A. Bell, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant H. Robertson, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant W. Howell, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant D. Latereaux, for services performed on said steamer Three Sisters, in the sum of $8.40, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant A. Senn, for services performed on said steamer Three Sisters, in the sum of $8.40, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant W. Young, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant Jacob Multhauf, for services performed on said steamer Three Sisters, in the sum of $71.66, with interest thereon,
at the rate of eight per cent. per annum, from the 21st day
72 of December, 1893, to the date of this decree.

To the libellant Walter Kaiser, for services performed on

said steamer Three Sisters, in the sum of $43.00, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant James Clune, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant Otis Cole, for services performed on said steamer Three Sisters, in the sum of $28.66, with interest thereon, at the rate of eight per cent. per annum, from the 21st day of December, 1893, to the date of this decree.

To the libellant Geo. Raabe, for services performed on said steamer Three Sisters as captain, in the sum of $40.32, with interest thereon from the first day of September, 1892, at the rate of eight per cent. per annum, to the date of this decree.

To the libellant Geo. Raabe, for services performed on said steamer Three Sisters as watchman, in the sum of $250.00, with interest thereon at the rate of eight per cent. per annum, from the first day of November, 1892, to the date of this decree.

And it further appearing that the said steamer Three Sisters was released from arrest in this cause upon the stipulation of the claimant, The Oregon Central & Eastern Railroad Company, with Henry Failing as surety, in the sum of $1,600.00—

It is therefore pronounced, adjudged, and decreed that the said libellants have and recover from the said claimant, The Oregon Central & Eastern Railroad Company, the following sums—that is to say:

R. J. Young, the sum of	$102 20	W. Young, the sum of	$32 88
M. Bell, " " "	82 11	A. Senn, " " "	9 64
C. A. Bell, " " "	32 88	Jacob Multhauf " "	82 11

73

H. Robertson, the sum of	32 88	Walter Kaiser, the sum of	49 34
W. Howell, " " "	32 88	James Clune, " " "	32 88
D. Latereaux, " " "	9 64	Otis Cole, " " "	32 88
Geo. Raabe, the sum of	360 15		

all in gold coin of the United States, and that the said libellants and each of them further recover from the said claimant their costs and disbursements herein, taxed and fixed by the court in the sum of $57.68.

And it is further ordered, considered, and adjudged by the court that in case said sums and each of them be not paid into the registry of this court within thirty days from the date of this decree that execution therefor issue against the said claimant and the said Henry Failing, surety upon the said bond given for the release of the said vessel.

And it is further ordered that the clerk distribute said amount as follows:

First, to the payment of the costs and disbursements herein.

Second, to the payment of the amounts herein decreed to be due said libellants.

(S'g'd) CHARLES B. BELLINGER, *Judge*."

74 And in open court the said claimant and *and* appellant, by its said proctor, prayed that said appeal be allowed, and tendered a bond, with sufficient surety, to the approval of this court, and which said bond is hereby approved, to stay proceedings herein until said appeal shall have been determined, and thereupon the court hereby allows said appeal and approves said bond, and execution is hereby stayed until the determination of said appeal; and this court does hereby certify and make known unto the Supreme Court of the United States that the only question arising upon the said appeal is the question as to whether or not under the facts stated in the amended libel and the amended exceptions thereto this court acquired or had jurisdiction to hear or pronounce the said decree.

And that the following is a copy of the said amended libel and the exceptions filed thereto:

Amended Libel.

"To the Honorable Charles B. Bellinger, judge of the United States district court for the district of Oregon, sitting in admiralty:

By leave of the court first had and obtained, R. J. Young, M. Bell, C. A. Bell, H. Robertson, W. Howell, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, and Geo. Raabe exhibit this their libel against the steamer Three Sisters, William M. Hoag, her engines, boilers, tackle, apparel, and furniture, and against all persons claiming and intervening for their interests therein in a cause for subtraction of wages on a contract, civil and maritime, and showeth:

First. That the steamer Three Sisters during the year 1892 and 1893 was engaged in navigating the waters of the Willamette river, in the State of Oregon, and is still engaged in navigating the waters of said river within the said State; that during all said time the Oregon Pacific Railroad Company was the owner of said steamer, but that during all of said time the property of the said Oregon Pacific Railroad Company, including the said steamer Three
75 Sisters, was in the possession and under the control of receivers thereof duly appointed by the circuit court of the State of Oregon for the county of Benton in the suit of The Farmers' Loan and Trust Company, trustee, *vs.* The Oregon Pacific Railroad Company and The Willamette Valley & Coast Railroad Company; that by the order of the said court appointing the said receivers the said receivers were required, authorized, and directed to continue the operation as a going concern of the railroads of the defendants and of the steamboat and steamship lines of the defendants operated in connection therewith, including the said steamer Three Sisters, and that during the said years 1892 and 1893 the said steamer Three Sisters was operated by the said receivers under the said orders and was so being operated at the time of the employment of the libellants and — of them thereon; that during all of said time the said steamer Three Sisters was employed by the said re-

ceivers under the said orders of the said court in navigating the Willamette river and in transporting freight and passengers thereon, including the freight and passengers destined to points in the various States of the United States other than the State of Oregon; that the said Oregon Pacific Railroad Company, acting through its said receivers so appointed as aforesaid, hired the said libellants on board the said steamer Three Sisters in the capacity, for the length of time, and at the agreed wages as follows, to wit:

The said R. J. Young between the first day of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment 21½ days as captain of the said steamer at the agreed price of $125.00 per month, and there is due him for such services the sum of $89.58, which is wholly unpaid.

The said M. Bell between the first day of November and the 20th of December, 1893, rendered services on the said steamer Three Sisters under the said employment as mate 21½ days at the agreed price of $100.00 per month, and there is due him for such services the sum of $71.66, which is wholly unpaid.

The said C. A. Bell between the first of November and the 20th of December, 1893, rendered services on the said steamer Three Sisters under the said employment as deck hand 21½ days
76 at the agreed price of $40.00 per month, and there is due him for said services the sum of $28.66, which is wholly unpaid.

The said H. Robertson between the first of November and the 20th of December, 1893, rendered services on the said steamer Three Sisters under the said employment as deck hand 21½ days at the agreed price of $40.00 per month, and there is due him for said services the sum of $28.66, which is wholly unpaid.

The said W. Howell between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment as deck hand 21½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $28.66, which is wholly unpaid.

The said D. Latereaux between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under the said employment as deck hand 6½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $8.40, which is wholly unpaid.

The said A. Senn between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under said employment as deck hand 6½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $8.40, which is wholly unpaid.

The said W. Young between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under said employment as watchman 21½ days at the agreed price of $40.00 per month, and there is due him for said service the sum of $28.66, which is wholly unpaid.

The said Jacob Multhauf between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under said employment as first engineer 21½ days at the

agreed price of $100.00 per month, and there is due him for such service the sum of $71.66, which is wholly unpaid.

77 The said Walter Kaiser between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters on the said employment as second engineer 21½ days at the agreed price of sixty dollars ($60.00) per month, and there is due him for such service the sum of $43.00, which is wholly unpaid.

The said James Clune between the first of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under such employment as fireman 21½ days at the agreed price of $40.00 per month, and there is due him for such service the sum of $28.66, which is wholly unpaid.

The said Otis Cole between the first day of November and the 20th of December, 1893, rendered service on the said steamer Three Sisters under said employment as fireman 21½ days at the agreed price of $40.00 per month, and there is due him for such service the sum of $28.66, which is wholly unpaid.

The said Geo. Raabe during the month of August, 1892, rendered service on the said steamer Three Sisters under the said employment as captain 9⅜ days at the agreed price of $125.00 per month, and there is due him for such service the sum of $40.32, which is wholly unpaid, and also rendered service during the entire months of September and October, 1892, on the said steamer Three Sisters under the said employment as captain and watchman in charge of said boat at the agreed price of $125.00 per month, and there is due him for such service the sum of $250.00, which is wholly unpaid.

2. The said R. J. Young for himself says that during the time of his employment upon the said steamer Three Sisters the said steamer was being operated by the said receivers of the Oregon Pacific Railroad Company as a regular boat upon the Willamette river between points and places at which the said receivers had regular agents; that during the said time there was on the

78 said steamer an officer known as the purser; that the said agents of the said receivers and the said purser collected and received all the earnings of the said boat from both passengers and freight and paid over the said earnings in the ordinary course of business to the said receivers; that none of the earnings of the said boat passed through the hands of the said Young; that the sole duties of the said Young consisted in navigating the said steamer Three Sisters upon the route selected by the said receivers, all within the said State of Oregon, and that all the supplies and the materials for the said boat were purchased by the said receiver through other agents and servants.

3. The said Geo. Raabe for himself says that the service rendered by him was service similar in kind to that rendered by the said R. J. Young and was rendered under circumstances similar to those stated in the preceding allegation as to the services of said Young, and that during the said time the said Raabe received none of the earnings of the said boat and none of the same passed through his

hands, but were paid over to the said receivers by the said purser and the said other agents of the said receivers, and that the sole and only duties of the said Raabe consisted in navigating the said boat upon routes selected by the said receivers, all within the State of Oregon; that during the months of September and October, 1892, the said steamer Three Sisters was tied up and all of the crew, with the exception of the said Raabe, were discharged by the said receivers, but that the said Raabe was retained to watch the said boat and care for the same, and that the only duties to be performed by the said Raabe were those of watchman.

4. These libellants say that all of said services were performed by them and each of them, as aforesaid, on board of the said steamer Three Sisters as seamen under said contract of hiring; that during the whole time above stated that the above-named libellants were in the service of said steamer each respectively well and truly
79 performed his duty to the best of his ability, and deserves and ought to be paid the wages due to each of the said libellants, amounting in the case of each libellant respectively as follows, to wit:

R. J. Young	$89 58
M. Bell	71 66
C. A. Bell	28 66
H. Robertson	28 66
W. Howell	28 66
D. Latereaux	8 40
A. Senn	8 40
W. Young	28 66
Jacob Multhauf	71 66
Walter Kaiser	43 00
James Clune	28 66
Otis Cole	28 66
Geo. Raabe	290 32

5. That until or about December 22, 1894, the said steamer Three Sisters remained in the control and possession of the receivers so appointed as aforesaid by the said circuit court of the State of Oregon for the county of Benton; that the said suit of The Farmers' Loan & Trust Company against The Oregon Pacific Railroad Company and The Willamette Valley & Coast Railroad Company was brought for the purpose of foreclosing a mortgage or deed of trust conveyed to the said Farmers' Loan & Trust Company of the entire property of the said Oregon Pacific Railroad Company for the purpose of securing an issue of bonds made by the said Oregon Pacific Railroad Company, and that the said receivers so appointed as aforesaid were appointed for the purpose of operating said railroad and steamboat lines of the said Oregon Pacific Railroad Company, including the said steamer Three Sisters, pending the foreclosure of the said mortgage or deed of trust, and were so appointed at the instance of the said Farmers' Loan & Trust Company, trustee as aforesaid;
80 that on or about the said December 22, 1894, all of the property of the said Oregon Pacific Railroad Company, in-

cluding the said steamer Three Sisters, was sold under execution issued out of the said circuit court of the State of Oregon for the county of Benton in the said suit of The Farmers' Loan and Trust Company, trustee, *vs.* The Oregon Pacific Railroad Company and The Willamette Valley & Coast Railroad Company, and that all of the said property of the said Oregon Pacific Railroad Company, including the said steamer Three Sisters, was purchased at the said sale by one A. B. Hammond and E. L. Bonner, and that since said date the said steamer Three Sisters has been in the possession of the said Bonner and of the said Hammond and is now in their possession as purchasers under the said sale as aforesaid.

6. That the wages due the said libellants and each of them have been from time to time demanded of the said Oregon Pacific Railroad Company and of its said receivers and from the said Bonner and Hammond, and that all of said persons and each of them have refused to pay the wages due the libellants or any part thereof, and that the said wages due said libellants and each of them are a lien upon the said steamer Three Sisters under title 3, chapter 55, of Hill's Annotated Laws of the State of Oregon, and under the law and practice of this honorable court; that the said steamer Three Sisters is now upon the Willamette river and within the jurisdiction of this honorable court.

7. That during the time the said steamer Three Sisters was in the possession of the said receivers so appointed by the circuit court of the State of Oregon for the county of Benton as aforesaid the libellants and each of them moved the said circuit court of the State of Oregon for the county of Benton for permission to proceed in this honorable court against the said steamer Three
81 Sisters for the purpose of collecting the wages so due to the libellants and each of them as aforesaid, but that the said court declined to grant said permission for the reason that the said property was soon thereafter to be sold under a decree of the said court; that at the time of the sale as aforesaid of the property of the Oregon Pacific Railroad Company, including the said steamer Three Sisters, and before the said property, including the said steamer Three Sisters, was sold these libellants and each of them notified all intending purchasers and the said Bonner and Hammond that these libellants and each of them had a lien upon the steamer Three Sisters for services performed upon the said steamer as aforesaid and for the amounts stated herein.

Wherefore libellants pray that process in due form of law, according to the procedure of this honorable court in causess of admiralty and maritime jurisdiction, will issue against the said steamer Three Sisters, her engines, boilers, tackle, apparel, and furniture, and that all persons claiming any right, title, or interest in said vessel, her engines, boilers, tackle, apparel, or furniture, may be cited to appear and answer all and singular the matters herein set forth, and that this honorable court would be pleased to decree the payment of the wages aforesaid, with interest due thereon, and that they may be decreed a lien on said steamer paramount to any

and all other claims, liens, or interest of whatsoever kind or nature, and that the said steamer may be condemned to be sold, with her engines, boilers, tackle, apparel, and furniture, to pay the several claims of these libellants and interest thereon and costs, and that these libellants may have such other and further relief in the premises as in law and justice they may be entitled to receive."

82 *Amended Exceptions.*

"To the Hon. Charles B. Bellinger, judge of the above-entitled court:

The amended exceptions of The Oregon Central and Eastern Railroad Company, claimant herein, to the libel of said libellants filed by leave of court and consent of parties allege that the said libel is informal and insufficient as follows:

First. That the same shows that at the time the said libellants and each of them were employed the said steamer Three Sisters was in charge of and being operated by a receiver of the Oregon Pacific Railroad Company, a corporation, the owner of said steamer, said receiver having been duly appointed by the circuit court of the State of Oregon for Benton county, and that all of the services performed by said libellants and each of them mentioned in said libel were performed while said steamer was in the possession of and being operated by said receiver, and that no maritime lien arose by reason of such employment or the rendition of said services.

Second. That the said libel shows that this court has no jurisdiction in the premises.

Third. That said libel shows that the said services alleged to have been performed by said R. J. Young of the alleged value of $89.56 were performed by said Young as master, and no lien arises therefrom.

Fourth. That said libel shows that the said Young did not file his said libel until after the expiration of one year from the rendition of said alleged services.

Fifth. That said libel shows that the services alleged to have been rendered by said Geo. Raabe of the alleged value of $290.32 were performed by said Raabe as master, and no lien arises therefrom.

83 Sixth. That said libel shows that the said Raabe did not file his said libel until the expiration of one year from the rendition of said alleged services."

CHARLES B. BELLINGER,
District Judge.

STATE OF OREGON, }
County of Multnomah, } ss.:

Due service of the above allowance of appeal is hereby accepted this 21st day of November, 1895.

W. W. COTTON,
Of Proctors for Libellants & Resp.

Endorsed: Filed November 25, 1895. E. D. McKee, clerk.

84 And afterwards, to wit, on Monday, the 26th day of January, 1896, the same being the 64th judicial day of the regular November term of said court—present, the Honorable Charles B. Bellinger, United States district judge, presiding—the following proceedings were had in said case, to wit:

85 In the District Court of the United States for the District of Oregon.

THE STEAMER THREE SISTERS—R. J. YOUNG *et al.*, Libellants; The Oregon *and* Central and Eastern Railroad Company, Claimant. No. 3941.

JANUARY 20, 1896.

Now, at this day, on motion of Mr. W. T. Muir, of counsel for the claimant, it is ordered that the time for filing the transcript of record in this cause on appeal to the Supreme Court of the United States be, and the same is hereby, extended thirty days.

CHARLES B. BELLINGER, *Judge.*

86 DISTRICT OF OREGON, *ss:*

I, E. D. McKee, clerk of the United States district court for the district of Oregon, do hereby certify that the foregoing transcript of record and proceedings in cause No. 3941, R. J. Young *et al. vs.* The Steamer Three Sisters, is a full, true, and correct transcript of the original record and proceedings in said cause as the same appear at my office and in my custody.

In testimony whereof I have hereunto set my hand and affixed the seal of said district court, at Portland, in said district, this January 31, 1896.

[Seal United States District Court, Oregon.]

E. D. McKEE,
Clerk United States District Court for the District of Oregon,
By G. H. MARSH,
Deputy Clerk.

87 In the Supreme Court of the United States, October Term, 1897.

THE STEAMER WILLIAM M. HOAG—THE OREGON CENTRAL and EASTERN RAILROAD COMPANY, Claimants and Appellants,

vs.

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. Howell, H. W. Sutton, D. Latereaux, A. Senn, W. Young, Jacob Multhauf, Walter Kaiser, James Clune, Otis Cole, A. Epperly, and George Raabe, Libellants and Respondents. } No. 137.

The issues presented and the points involved in the above-entitled cause being the same as those in controversy in the case of The

Three Sisters, The Oregon Central and Eastern Railroad Company, claimants and appellants, *v.* R. J. Young *et al.*, libellants and
88 respondents (No. 138), pending in this court, it is hereby stipulated and agreed by and between the parties hereto, acting by and through their respective proctors, that the record in this cause be not printed, and that the decision rendered by this court in the said cause of the steamer Three Sisters (No. 138) shall determine the issues and points involved in this cause, and that judgment may be entered in this cause in accordance with the opinion of this court in the said case of the steamer Three Sisters.

WM. T. MUIR,
Of Proctors for Appellants.

L. B. COX,
COX, COTTON, TEAL & MINOR,
Proctors for Respondents.

89 (Endorsed:) Case No. 16,201. Supreme Court U. S, October term, 1897. Term No., 137. The Oregon Central & Eastern R'y Co., app't, *vs.* R. J. Young *et al.* Stipulation that record be not printed, and that case abide the result in No. 138. Filed Aug. 2, 1897. James H. McKenney, clerk.

Endorsed on cover: Case No. 16,202. Oregon D. C. U. S. Term No., 138. The Oregon Central and Eastern Railroad Company, claimant of the steamer "Three Sisters," appellant, *vs.* R. J. Young, M. Bell, C. A. Bell, *et al.* Filed February 21, 1896.